

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Revision of the Commission's Rules to	)	CC Docket No. 94-102
Ensure Compatibility with Enhanced 911	)	
Emergency Calling Systems	)	
	)	
Request for Waiver	)	TRS ID Nos. 808439, 820852

To: The Commission

**QWEST WIRELESS, LLC AND TW WIRELESS, LLC  
PETITION FOR EXTENSION OF TIME OR  
WAIVER OF SECTION 20.18 OF THE RULES**

Qwest Wireless, LLC and TW Wireless, LLC (collectively, "Qwest") hereby request a limited waiver of the June 30, 2002, deadline established in the Federal Communications Commission's ("Commission") *Fourth Report and Order*<sup>1</sup> and Section 20.18(c) of the Commission's rules, so that Qwest can deploy its TTY 911 solution in a small number of markets by December 31, 2002.<sup>2</sup> This request relates only to that part of Qwest's network that consists of an open wireless architecture ("Open A") utilizing multiple vendors, including Ericsson base stations and base station controllers. These Open A networks constitute only a small portion of Qwest's total network, and grant of the waiver would affect only a fraction of the total number of usage carried on Qwest's network and a fraction of Qwest's total base of subscribers.

As discussed below, the limited relief sought, the uniqueness of Qwest's open wireless architecture, as well as Qwest's diligence in pursuing compliance with Section 20.18(c) warrant

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<sup>1</sup> *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Report and Order*, 15 FCC Rcd. 25216 (2000).

<sup>2</sup> 47 C.F.R. § 20.18(c), note.

grant of the requested waiver. Grant of the requested waiver is also consistent with the Commission's long-standing precedent of providing carriers relief when compliance difficulties stem from matters outside their control.<sup>3</sup> Finally, as demonstrated below, grant of the instant Petition will serve the public interest and promote public safety in Qwest's markets utilizing Open A architecture.

## I. INTRODUCTION AND BACKGROUND

Qwest has worked diligently with its vendors to acquire, test and deploy TTY-digital capabilities in its network and regularly issues requests for updated information from its various vendors to ensure that their products will facilitate Qwest's compliance with the Commission's various requirements. In the majority of its markets, covering approximately 81% of all usage over its network, Qwest utilizes Lucent network infrastructure equipment from end-to-end of the network. As noted in previous correspondence, Qwest has scheduled testing of Lucent's digital-TTY compliant products for April 3-19, 2002 and anticipates compliance with the June 30, 2002 deadline of Section 20.18(c) in all of its Lucent Markets.<sup>4</sup>

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<sup>3</sup> See, e.g., *Telephone Number Portability, Petitions for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Phase II, Order*, 13 FCC Rcd. 9564, 9568 ¶ 17 (1998); *Roosevelt County Rural Telephone Cooperative, Inc., Order*, 13 FCC Rcd. 22, 42-47 ¶¶ 29-36 (1997); *Cuba City Telephone Exchange Company, Order*, 12 FCC Rcd. 21794, 21805-09 ¶¶ 16-25; *C, C & S Telco, Inc., Memorandum Opinion and Order*, 6 FCC Rcd. 349-50 ¶¶ 6, 12 (1991); *Policies and Rules Concerning Operator Service Providers, Notice of Proposed Rule Making*, 5 FCC Rcd. 4630, 4633 ¶ 22 (1990); see also, *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992 - Compatibility Between Cable Systems and Consumer Electronics Equipment, First Report and Order*, 9 FCC Rcd. 1981, 1994 ¶¶ 76-77 (1994).

<sup>4</sup> See Supplemental Fourth Quarter TTY Status Report of Qwest Wireless, LLC and TW Wireless, LLC, CC Docket No. 94-102 (filed Feb. 22, 2002) ("Supplemental Fourth Quarter TTY Status Report"). Note: Qwest is aware of the issues that AT&T Wireless Services, Inc. raised in its Feb. 4, 2002 letter to the Commission and in subsequent Commission meetings, and notes that similar concerns may arise with Qwest's testing TTY functionality with Public Safety Answering Points ("PSAPs"). Such potential problems, which appear to be related to PSAP equipment, are separate and distinct from the Ericsson-related delays discussed in this Petition.

In the remaining markets, Qwest utilizes the Open A or open wireless architecture based on the A interface of the TIA/EIA-41 standard network model.<sup>5</sup> This architecture allows Qwest to select the best vendor for each class of component and thus increases the quality of service delivered to its customers.<sup>6</sup> Although such an open architecture provides Qwest and its customers with numerous benefits, Qwest must work closely with each vendor to ensure interoperability among the various components of its network. To that end, each equipment and software upgrade to be installed in the Open A networks is individually tested and, if necessary, manipulated to insure proper interoperability with the components manufactured by different vendors. Qwest believes that it is the only carrier in the country with this particular network configuration.

Qwest notified the Commission, in its January 15, 2002 quarterly status report, that it was still awaiting the necessary software for the Ericsson base stations and base station controllers necessary to implement its digital-TTY solution in the Open A markets.<sup>7</sup> The status report also stated that Ericsson had previously informed Qwest that the necessary 8.6 release software upgrade should be generally available in February 2002, and that Qwest knew of no change in that projected time frame.<sup>8</sup> These statements were based upon information provided by Ericsson

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As PSAP testing progresses over the course of the next months, Qwest will keep the Commission apprised of any significant complications that may arise.

<sup>5</sup> Attachment A illustrates the respective locations of the Lucent and Open A Markets (Attachment A-1) and usage and subscriber shares (Attachment A-2) represented in each market.

<sup>6</sup> In Qwest's Open A markets, different vendors supply switching equipment, base station equipment, and home location routers ("HLRs").

<sup>7</sup> See Qwest Wireless, LLC and TW Wireless, LLC Fourth Quarter 2001 Digital TTY Status Report, CC Docket No. 94-102, filed Jan. 15, 2002 ("Fourth Quarter TTY Status Report").

<sup>8</sup> See *id.*

indicating that the necessary equipment would be available for “first office” application by January 15, 2002 with general availability by February 15, 2002.

In its Supplemental Fourth Quarter TTY Status Report, Qwest informed the Commission that, by letter dated January 30, 2002 (after the Fourth Quarter TTY Status Report was filed), Ericsson stated that the general availability date of the necessary 8.6 release software upgrade would be May 28, 2002.<sup>9</sup> In a subsequent, February 7, 2002, telephone conversation with, and also by written correspondence from Ericsson dated February 21, 2002, Qwest learned that the “first office” application date for the 8.6 release software upgrade had also been delayed until sometime in March 2002 and that, despite Qwest’s request to be the “first office” application for the 8.6 release, Leap Wireless (“Leap”) would receive the product for such purposes.<sup>10</sup> This delay is particularly significant because Leap and Qwest are the only carriers that will utilize the 8.6 software upgrade. Further, Qwest is the only carrier utilizing the Open A architecture, and thus the only carrier that will need to modify the generally-available 8.6 release.

In light of these developments, Qwest expects that upon general availability, three-to-four months will generally be needed to deploy the TTY functionality network-wide. Thus, if the May 28, 2002 date holds, Qwest anticipates that a reliable digital-TTY compatible product could be deployed no earlier than two-to-three months beyond the June 30, 2002 deadline.

Qwest has made further inquiries of Ericsson to determine whether the manufacturer can expedite the availability of a digital-TTY compatible product for Qwest’s network. However, based on the information currently available, Qwest believes that it will be unable to meet the June 30, 2002 deadline in its Open A markets and therefore respectfully files this limited waiver request.

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<sup>9</sup> See Supplemental Fourth Quarter TTY Status Report.

II. GOOD CAUSE EXISTS FOR WAIVER OF THE JUNE 30, 2002 COMPLIANCE DEADLINE IN QWEST'S OPEN A MARKETS

Qwest requests a limited waiver of the June 30, 2002 digital-TTY deadline to permit Qwest to deploy its digital-TTY solution in its Open A markets by December 31, 2002.<sup>11</sup> The Commission may waive any provision of its rules for good cause shown.<sup>12</sup> The Commission may also waive specific requirements of the rule where, in view of unique or unusual factual circumstances of the instant case, application of the rules would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>13</sup> Furthermore, reviewing courts have found that a waiver is appropriate where special circumstances warrant a deviation from the general rule and deviation will serve the public interest.<sup>14</sup> Qwest submits that its request for limited waiver of the June 30, 2002 compliance deadline satisfies the legal standards for waiver.

A. Application of the June 30, 2002 Rule in Qwest's Open A Markets Would be Inequitable and Unduly Burdensome

Qwest takes its responsibilities to comply with the Commission's digital-TTY requirements seriously and has worked diligently to implement the appropriate solution. Nevertheless, Qwest remains dependent upon its vendors to provide compliant software and equipment. To that end, Qwest has continually apprised its vendors, including Ericsson, of its

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<sup>10</sup> *See id.*

<sup>11</sup> Qwest emphasizes that this request is limited solely to its Open A markets, which represent a distinct minority of the markets in which Qwest offers wireless services, whether measured by percentage of usage or subscribership. As noted above, the majority of Qwest's wireless business occurs in Lucent markets, in which Qwest anticipates complying with the June 30, 2002 deadline.

<sup>12</sup> 47 C.F.R. § 1.3.

<sup>13</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>14</sup> *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *Wait Radio*, 418 F.2d 1153 (D.C. Cir. 1969).

need for compliant products in order to meet Commission requirements. Qwest also sought to minimize time-consuming post-installation delays by seeking “first office” application award, which efforts unfortunately failed. Further, Qwest has premised its quarterly status reports to the Commission on information provided by its vendors. Despite Qwest’s best efforts, however, Ericsson has announced delays in providing Qwest with compliant products.<sup>15</sup>

If, as promised, Ericsson delivers on or shortly after May 28, 2002, Qwest will miss the compliance deadline. Qwest has no ability to accelerate this process. Consequently, and given Qwest’s good faith efforts to comply, an application of the June 30, 2002 deadline would be inequitable and unduly burdensome for Qwest. For this reason, Qwest’s special circumstances warrant a deviation from the June 30, 2002, deadline.

B. Qwest’s Open A Network Is Unique And  
Qwest Has No Reasonable Alternative

In order to enable it to deploy wireless services to subscribers in its markets more efficiently and expeditiously, Qwest decided to develop some of its markets with an Open A architecture that utilizes the equipment and software of different vendors for different components. To Qwest’s knowledge, no other carrier employs this Open A architecture, and only one other carrier, Leap, requires the particular version of the 8.6 release software upgrade that Qwest is awaiting.

In sum, Qwest finds itself in a unique position as compared with the rest of the wireless industry. Qwest and Leap are the only carriers who require Ericsson’s particular 8.6 software upgrade version. Between these two carriers, only Qwest employs the Open A architecture, and thus only Qwest will need to perform additional work beyond the general availability date with

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<sup>15</sup> Qwest understands that Ericsson has largely confirmed the information contained herein to the TTY Forum.

the software upgrade to render it and all of its features, including the TTY capability, useable in its unique network. The special circumstances of Qwest's Open A network architecture, Ericsson's repeated delays in delivery of an absolutely necessary software upgrade, and the anticipated additional time that will be required to ensure that the digital-TTY feature work, simply serve to underscore the fact that application of the rule in this instance would serve no rational purpose. For this reason, a deviation from the rule is warranted.

C. December 31, 2002 Is A Reasonable Compliance  
Deadline For Qwest's Open A Markets

Qwest is requesting six months beyond the current June 30, 2002 deadline to complete deployment of digital TTY in its Open A markets out of an abundance of caution. Any time software upgrades are installed or other work is performed on its Open A networks, Qwest must take a number of steps to identify and address any potential reliability and interoperability concerns. Supplying manufacturers must cooperate with each other to develop upgrades that work with all other components of the network. Nevertheless, Qwest must take additional engineering and testing steps to ensure that the newly-installed upgrade functions as intended, after the upgrades are installed. For instance, Qwest must:

- ◆ Test software in both lab and real environments
- ◆ Possibly develop a "patch" to ensure that Ericsson's software works in the Open-A architecture
- ◆ Load software
- ◆ Test in a live network and with selected TTY-capable PSAPs
- ◆ Remove software if problems occur and remit to Ericsson or other affected vendor for modification
- ◆ Activate TTY feature network-wide

Qwest understands that Ericsson and other Open A vendors have spent, and continue to spend, much time working out interoperability issues relating to the 8.6 release. Nevertheless, once Qwest receives the 8.6 upgrade, Qwest expects to spend at least two-to-three months time engineering, testing, and probably patching to ensure that the 8.6 release software and all of its features function properly in the Open A networks.

Given the uncertainty regarding the 8.6 release software upgrade, however, Qwest cannot state with certainty how much time will be required to deploy the software. To that end, Qwest requests that the Commission extend the compliance deadline for Qwest's Open A markets until December 31, 2002. Qwest will make its post-installation work a top priority and is prepared to make every effort to achieve digital-TTY compatibility in its Open A markets long before December 31, 2002. Although Qwest hopes to spend not more than two-to-three months beyond June 30, 2002 to implement the software, this figure assumes timely delivery by Ericsson and a smooth progression of testing and deployment. Minor delays both in delivery and testing/deployment may occur, however, delaying this process. Consequently, out of an abundance of caution, Qwest requests a six-months extension beyond the original deadline to December 31, 2002.



III. CONCLUSION

For the foregoing reasons, Qwest hereby requests a limited waiver of Section 20.18(c) of the Commission's rules extending the digital-TTY deployment deadline until December 31, 2002, affecting a small amount of Qwest's usage and subscribers.

Respectfully submitted,

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March 18, 2002

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **QWEST WIRELESS, LLC AND TW WIRELESS, LLC PETITION FOR EXTENSION OF TIME OR WAIVER OF SECTION 20.18 OF THE RULES** to be 1) filed with the FCC via its Electronic Comment Filing System; and 2) served via email on the parties listed below.

Richard Grozier  
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March 18, 2002

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